

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. LATOURETTE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 495, H.R. 1801, and on House Concurrent Resolutions 76, 79, 87 and 109, the measures just considered by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

SMALL BUSINESS LIABILITY PROTECTION ACT

Mr. GILLMOR. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1831) to provide certain relief for small businesses from liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

The Clerk read as follows:

H.R. 1831

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Liability Protection Act".

SEC. 2. SMALL BUSINESS LIABILITY RELIEF.

(a) EXEMPTIONS.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following new subsections:

“(o) DE MICROMIS EXEMPTION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), a person shall not be liable, with respect to response costs at a facility on the National Priorities List, under this Act if liability is based solely on paragraph (3) or (4) of subsection (a), and the person, except as provided in paragraph (4) of this subsection, can demonstrate that—

“(A) the total amount of the material containing hazardous substances that the person arranged for disposal or treatment of, arranged with a transporter for transport for disposal or treatment of, or accepted for transport for disposal or treatment, at the facility was less than 110 gallons of liquid materials or less than 200 pounds of solid materials (or such greater or lesser amounts as the Administrator may determine by regulation); and

“(B) all or part of the disposal, treatment, or transport concerned occurred before April 1, 2001.

“(2) EXCEPTIONS.—Paragraph (1) shall not apply in a case in which—

“(A) the President determines that—

“(i) the materials containing hazardous substances referred to in paragraph (1) have contributed significantly or could contribute significantly, either individually or in the aggregate, to the cost of the response action or natural resource restoration with respect to the facility; or

“(ii) the person has failed to comply with an information request or administrative subpoena issued by the President under this

Act or has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the facility; or

“(B) a person has been convicted of a criminal violation for the conduct to which the exemption would apply, and that conviction has not been vitiated on appeal or otherwise.

“(3) NO JUDICIAL REVIEW.—A determination by the President under paragraph (2)(A) shall not be subject to judicial review.

“(4) NONGOVERNMENTAL THIRD-PARTY CONTRIBUTION ACTIONS.—In the case of a contribution action, with respect to response costs at a facility on the National Priorities List, brought by a party, other than a Federal, State, or local government, under this Act, the burden of proof shall be on the party bringing the action to demonstrate that the conditions described in paragraph (1)(A) and (B) of this subsection are not met.

“(p) MUNICIPAL SOLID WASTE EXEMPTION.—

“(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection, a person shall not be liable, with respect to response costs at a facility on the National Priorities List, under paragraph (3) of subsection (a) for municipal solid waste disposed of at a facility if the person, except as provided in paragraph (5) of this subsection, can demonstrate that the person is—

“(A) an owner, operator, or lessee of residential property from which all of the person's municipal solid waste was generated with respect to the facility;

“(B) a business entity (including a parent, subsidiary, or affiliate of the entity) that, during its 3 taxable years preceding the date of transmittal of written notification from the President of its potential liability under this section, employed on average not more than 100 full-time individuals, or the equivalent thereof, and that is a small business concern (within the meaning of the Small Business Act (15 U.S.C. 631 et seq.)) from which was generated all of the municipal solid waste attributable to the entity with respect to the facility; or

“(C) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code that, during its taxable year preceding the date of transmittal of written notification from the President of its potential liability under this section, employed not more than 100 paid individuals at the location from which was generated all of the municipal solid waste attributable to the organization with respect to the facility.

For purposes of this subsection, the term 'affiliate' has the meaning of that term provided in the definition of 'small business concern' in regulations promulgated by the Small Business Administration in accordance with the Small Business Act (15 U.S.C. 631 et seq.).

“(2) EXCEPTION.—Paragraph (1) shall not apply in a case in which the President determines that—

“(A) the municipal solid waste referred to in paragraph (1) has contributed significantly or could contribute significantly, either individually or in the aggregate, to the cost of the response action or natural resource restoration with respect to the facility;

“(B) the person has failed to comply with an information request or administrative subpoena issued by the President under this Act; or

“(C) the person has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the facility.

“(3) NO JUDICIAL REVIEW.—A determination by the President under paragraph (2) shall not be subject to judicial review.

“(4) DEFINITION OF MUNICIPAL SOLID WASTE.—

“(A) IN GENERAL.—For purposes of this subsection, the term 'municipal solid waste' means waste material—

“(i) generated by a household (including a single or multifamily residence); and

“(ii) generated by a commercial, industrial, or institutional entity, to the extent that the waste material—

“(I) is essentially the same as waste normally generated by a household;

“(II) is collected and disposed of with other municipal solid waste as part of normal municipal solid waste collection services; and

“(III) contains a relative quantity of hazardous substances no greater than the relative quantity of hazardous substances contained in waste material generated by a typical single-family household.

“(B) EXAMPLES.—Examples of municipal solid waste under subparagraph (A) include food and yard waste, paper, clothing, appliances, consumer product packaging, disposable diapers, office supplies, cosmetics, glass and metal food containers, elementary or secondary school science laboratory waste, and household hazardous waste.

“(C) EXCLUSIONS.—The term 'municipal solid waste' does not include—

“(i) combustion ash generated by resource recovery facilities or municipal incinerators; or

“(ii) waste material from manufacturing or processing operations (including pollution control operations) that is not essentially the same as waste normally generated by households.

“(5) BURDEN OF PROOF.—In the case of an action, with respect to response costs at a facility on the National Priorities List, brought under section 107 or 113 by—

“(A) a party, other than a Federal, State, or local government, with respect to municipal solid waste disposed of on or after April 1, 2001; or

“(B) any party with respect to municipal solid waste disposed of before April 1, 2001, the burden of proof shall be on the party bringing the action to demonstrate that the conditions described in paragraphs (1) and (4) for exemption for entities and organizations described in paragraph (1)(B) and (C) are not met.

“(6) CERTAIN ACTIONS NOT PERMITTED.—No contribution action may be brought by a party, other than a Federal, State, or local government, under this Act with respect to circumstances described in paragraph (1)(A).

“(7) COSTS AND FEES.—A nongovernmental entity that commences, after the date of the enactment of this subsection, a contribution action under this Act shall be liable to the defendant for all reasonable costs of defending the action, including all reasonable attorney's fees and expert witness fees, if the defendant is not liable for contribution based on an exemption under this subsection or subsection (o).”.

(b) EXPEDITED SETTLEMENT.—Section 122(g) of such Act (42 U.S.C. 9622(g)) is amended by adding at the end the following new paragraphs:

“(7) REDUCTION IN SETTLEMENT AMOUNT BASED ON LIMITED ABILITY TO PAY.—

“(A) IN GENERAL.—The condition for settlement under this paragraph is that the potentially responsible party is a person who demonstrates to the President an inability or a limited ability to pay response costs.

“(B) CONSIDERATIONS.—In determining whether or not a demonstration is made under subparagraph (A) by a person, the President shall take into consideration the ability of the person to pay response costs and still maintain its basic business operations, including consideration of the overall

financial condition of the person and demonstrable constraints on the ability of the person to raise revenues.

“(C) INFORMATION.—A person requesting settlement under this paragraph shall promptly provide the President with all relevant information needed to determine the ability of the person to pay response costs.

“(D) ALTERNATIVE PAYMENT METHODS.—If the President determines that a person is unable to pay its total settlement amount at the time of settlement, the President shall consider such alternative payment methods as may be necessary or appropriate.

“(8) ADDITIONAL CONDITIONS FOR EXPEDITED SETTLEMENTS.—

“(A) WAIVER OF CLAIMS.—The President shall require, as a condition for settlement under this subsection, that a potentially responsible party waive all of the claims (including a claim for contribution under this Act) that the party may have against other potentially responsible parties for response costs incurred with respect to the facility, unless the President determines that requiring a waiver would be unjust.

“(B) FAILURE TO COMPLY.—The President may decline to offer a settlement to a potentially responsible party under this subsection if the President determines that the potentially responsible party has failed to comply with any request for access or information or an administrative subpoena issued by the President under this Act or has impeded or is impeding, through action or inaction, the performance of a response action with respect to the facility.

“(C) RESPONSIBILITY TO PROVIDE INFORMATION AND ACCESS.—A potentially responsible party that enters into a settlement under this subsection shall not be relieved of the responsibility to provide any information or access requested in accordance with subsection (e)(3)(B) or section 104(e).

“(9) BASIS OF DETERMINATION.—If the President determines that a potentially responsible party is not eligible for settlement under this subsection, the President shall provide the reasons for the determination in writing to the potentially responsible party that requested a settlement under this subsection.

“(10) NOTIFICATION.—As soon as practicable after receipt of sufficient information to make a determination, the President shall notify any person that the President determines is eligible under paragraph (1) of the person's eligibility for an expedited settlement.

“(11) NO JUDICIAL REVIEW.—A determination by the President under paragraph (7), (8), (9), or (10) shall not be subject to judicial review.

“(12) NOTICE OF SETTLEMENT.—After a settlement under this subsection becomes final with respect to a facility, the President shall promptly notify potentially responsible parties at the facility that have not resolved their liability to the United States of the settlement.”.

SEC. 3. EFFECT ON CONCLUDED ACTIONS.

The amendments made by this Act shall not apply to or in any way affect any settlement lodged in, or judgment issued by, a United States District Court, or any administrative settlement or order entered into or issued by the United States or any State, before the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. GILLMOR) and the gentleman from Illinois (Mr. COSTELLO) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. GILLMOR).

GENERAL LEAVE

Mr. GILLMOR. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation, and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. GILLMOR. Madam Speaker, I ask unanimous consent that the gentleman from Tennessee (Mr. DUNCAN) be permitted to control 10 minutes of the time on this side of the aisle.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. GILLMOR. Madam Speaker, I yield myself such time as I may consume.

Today my colleagues and I bring environmental legislation before this House that we believe will make a difference in the lives of everyday Americans. This bill, the Small Business Liability Protection Act, will help to end the long nightmares suffered by so many small businesses which become liable for substantial amounts of money only for throwing regular, ordinary household waste in the local dump.

As a member of the House's Subcommittee on Hazardous Materials for the past several Congresses, I have heard repeated stories of businessowners who found themselves involved in serious Superfund liability litigation for either throwing out just regular trash, or having legally disposed of some material that years later was found to be improperly disposed of. The bill before us, H.R. 1831, will take a major step toward trying to bring some sanity and to bring some fairness to Superfund liability.

To illustrate my point, Madam Speaker, I would like to provide a few examples of how the current system produces unfair results.

Greg Shierling took over a McDonalds business from his parents in 1996. In 1999, he was informed that he was financially responsible to the tune of \$65,000 for cleanup of a landfill that his parents had legally trucked trash to 30 years ago when Greg was still in grade school.

Mike Nobis owns a printing shop. In February of 1999, he was informed that six large local companies were coming after him and 147 other small businesses for \$3.1 million in cleanup costs because he had legally sent paper and ordinary trash to the local landfill.

Pat McClean was forced to pay \$21,900. His problem was that his business, a restaurant, sent chicken bones, potato peelings, and soiled napkins to a local dump.

Mr. McClean's story is practically identical to Barbara Williams of Gettysburg, Pennsylvania. Her former restaurant, the Sunny Ray, became enmeshed in the financial quagmire of

Superfund liability because she too threw chicken bones and other ordinary trash in the local dump.

Each of these stories is somewhat different, but in many ways are the same. A person legally disposed of ordinary trash. They were then sued by someone else, trying to get money for cleanup, and in order to pay the bill, pay the debt, the small business laid off trusted employees, had to sue friends in the community, built substantial legal bills, and suffered undue personal anguish. That outcome simply is not right.

To address these concerns, our bill provides relief to small business, those of 100 employees or less; it provides liability protection to small businesses that disposed of very small amounts of ordinary garbage, and it shelters small businesses from serious financial hardship by offering the businesses affected expedited settlements.

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It does not save any business from Superfund liability if their waste stream caused serious environmental harm. The bill provides an appropriate helping hand while keeping the onus on all businesses to be responsible stewards of our environment.

This legislation is not the type of comprehensive Superfund legislation that many have supported over the years, including myself. There have been several unrealized attempts over the years to reach that Holy Grail. It has resulted not in a better Superfund program, but in more lawsuits, more stigmas, and less clean-up.

Rather, this bill is an acknowledgment that something must be done and that the best way to provide common-sense liability relief to those who need it is to find those areas of agreement within the Superfund universe and move them forward.

In fact, Mr. Speaker, I look forward to working diligently on brownfields legislation once this bill passes.

I want to make a few comments about some other Members who have worked on this bill. I want to thank the vice-chairman of our subcommittee, the gentleman from Illinois (Mr. SHIMKUS), who first brought this matter before Congress last year.

I want to express appreciation to the gentleman from Ohio (Mr. OXLEY) for his help in laying the groundwork for today.

I also want to thank the ranking members of both our subcommittee and full committee, the gentleman from New Jersey (Mr. PALLONE) and the gentleman from Michigan (Mr. DINGELL). Their work on this issue has been instrumental in bringing this bill before us.

Finally, I want to thank the gentleman from Louisiana (Mr. TAUZIN), the chairman, and the committee staff for their hard work in support of this legislative effort.

I urge all Members to vote for the passage of H.R. 1831.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, May 21, 2001.

STATEMENT OF ADMINISTRATION POLICY

H.R. 1831—SMALL BUSINESS LIABILITY PROTECTION ACT

The Administration strongly supports enactment of H.R. 1831. The bill will promote the cleanup of Superfund sites and reduce needless lawsuits by drawing a bright line between large contributors of toxic waste and small businesses who disposed of only small amounts of waste or ordinary trash. The Administration commends the bipartisan sponsors of H.R. 1831 for developing legislation that will reduce litigation and thereby increase the time and resources that can be spent on cleaning the environment. The Administration will continue to work in the legislative process to address concerns with the provisions that cut off citizens' access to courts and withhold the benefits of the bill for small businesses unless they comply with all information requests imposed by EPA, whether the law requires the furnishing of that information or not.

Madam Speaker, I reserve the balance of my time.

Mr. COSTELLO. Madam Speaker, I yield 10 minutes to the gentleman from Florida (Mr. DEUTSCH), of the Committee on Energy and Commerce; and I ask unanimous consent that he be permitted to allocate time.

The SPEAKER pro tempore (Mrs. BIGGERT). Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. COSTELLO. Madam Speaker, I strongly support H.R. 1831, the Small Business Liability Protection Act.

For over 8 years, there has been a general consensus among the Members of this House that too many small businesses, homeowners, and small charitable organizations were being sued by large businesses for Superfund clean-up costs when these parties did nothing more than put out their normal trash.

Unfortunately, the House has not been able to pass legislation to stop these abuses because liability protection was always a component of a larger and more controversial bill.

Today, we are taking a critical step to ending this abuse, which has been called a nightmare for small businesses, their families, friends, and neighbors. This bill is brief, only 13 pages; but its impact will be widespread among the small business community. Businesses with not more than 100 employees will now be able to feel secure that they will not be sued by larger businesses when all they did was send out ordinary trash to a Superfund site.

In my district in southwestern and southern Illinois, for example, virtually all businesses will now be protected from such lawsuits. In addition to protecting those who sent the trash, the bill also exempts any party that sent very small amounts of waste to a Superfund site.

At too many sites across the country, polluters at Superfund sites have engaged in abusive practices of literally

suing every business in the phone book as a way of spreading out their cost for Superfund clean-up. The theory was that everyone's trash must contain some hazardous substances. This bill will stop that abuse.

This bill demonstrates that by working in a bipartisan manner, we can in fact get results that help real people, real benefits to real people. It is no secret that this bill is of major interest to the National Federation of Independent Business. That organization should be congratulated for reaching out in a bipartisan manner and working with Democrats and Republicans to develop this legislation.

Madam Speaker, I urge my colleagues to support this legislation, and I reserve the balance of my time.

Mr. DUNCAN. Madam Speaker, I yield myself such time as I may consume.

(Mr. DUNCAN asked and was given permission to revise and extend his remarks.)

Mr. DUNCAN. Madam Speaker, I rise in strong support of H.R. 1831, the Small Business Liability Protection Act.

Madam Speaker, virtually every Member of Congress has a story to tell about the abuses of the Superfund program in his or her district. We have just heard a number of examples of that by my friend, the gentleman from Ohio (Mr. GILLMOR). The worst abuses often involve using this statute to threaten small parties and small businesses with liability for millions of dollars to pay for the clean-up of a Superfund site, even if the contamination that requires cleaning up has nothing to do with their waste.

When Congress passed the Superfund statute in 1980, Congress was not aiming at small businesses and ordinary garbage. However, at the urging of overzealous attorneys representing both EPA and third-party plaintiffs, courts have expanded Superfund liabilities so far that someone can be held liable for cleaning up a site even if they sent only a quart of oil, ordinary household garbage, or even a single copper penny.

This theory of joint and several liability, holding someone liable for all of the costs regardless of their degree of involvement at a site, has created unfairness, to say the least, for all parties caught up in Superfund liability.

But the burden of this liability falls most heavily on small businesses, which often cannot even afford to hire a lawyer. In fact, Madam Speaker, I have said before that we should pin a medal on anyone who survives in small business today, and certainly Superfund problems of small businesses are a prime example.

While we have not yet addressed all of the problems with the Superfund statute, I am proud to say that today we can make this flawed program a little bit fairer. Today we can pass legislation to protect small businesses from at least some Superfund liability. H.R.

1831 accomplishes this goal by providing an exemption from liability for people or companies who send only a small amount of waste to a Superfund site and households, small businesses, and now nonprofit organizations that send only ordinary trash to a Superfund site.

Under the bill, these parties will not have to hire a lawyer to gain the protection of these exemptions. In most cases, H.R. 1831 places the burden on the plaintiff to prove that the small party is not exempt.

Finally, we realized that not all small businesses will be eligible for these exemptions. For these small businesses, H.R. 1831 provides an expedited settlement based on a limited ability to pay so that they are not trapped in Superfund litigation for years and years, as we have seen some small businesses in the past years since we have passed the original Superfund legislation.

This bill does not accomplish everything we want to accomplish on Superfund reform, but it is certainly a good first step in the right direction.

I want to say that, first of all, I would like to commend my good friend, one of the great leaders of this Congress, the gentleman from New York (Mr. BOEHLERT), of the Committee on Science and a Member who chaired the Subcommittee on Water Resources and Environment of the Committee on Transportation in the past 6 years in the Congress, and held numerous hearings on this legislation and other Superfund-type issues.

I also want to commend the gentleman from Ohio (Mr. GILLMOR) for the work that he has done, because he has worked on this for several years.

I want to thank another close friend, the gentleman from Illinois (Mr. COSTELLO), for his support, as he has expressed today; and the ranking member, his ranking member of our full committee, the gentleman from Minnesota (Mr. OBERSTAR); and certainly, last but not least, the chairman of our full committee, the gentleman from Alaska (Mr. YOUNG), all of whom have expressed strong support for this very fine legislation to provide at least some assistance to the small businesses of this Nation.

Madam Speaker, I urge all Members to support this very moderate and reasonable legislation, and I reserve the balance of my time.

Mr. DEUTSCH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, over the past 7 years, Members on the Democratic side of the aisle have supported bills to deal with the three issues covered by the bipartisan compromise that the House considers today.

I support the fair, balanced compromise contained in this bill. It deals with the liability of parties who sent very small amounts of hazardous substance to a site, and the liability of homeowners and small businesses that

has arisen from the generation of municipal solid waste, basic household trash.

I congratulate all of my colleagues from both sides of the aisle for their dedication in resolving these difficult issues. Ideology has been put aside to produce a common-sense bill that can and should become a public law.

This legislation codifies the Environmental Protection Agency's current ability-to-pay policy, and contains two tailored exemptions from liability at final Superfund national priority list sites.

The first exemption is available for any person who sent very small amounts of waste to a Superfund NPL site. The second exemption provides liability protection for homeowners and small businesses who have had their trash picked up by their city trash collector and then disposed of at a local landfill which has been listed as a Superfund NPL site.

Under the bill, the costs associated with the two exemptions and the ability-to-pay provision are not transferred to the Superfund trust fund or the Federal program. This paragraph reflects the EPA policy that de micromis parties who have contributed only a minuscule amount of waste to the site should not participate in the financing of the clean-up.

However, to deal with the equities of the situation where the waste material could contribute significantly to the cost of the clean-up, the bill gives the President the right, which cannot be challenged in court, to deny the exemption.

During discussions of this bill, representatives of small business emphasized that their problem is not with the government but with large, responsible parties who go after or threaten small businesses or homeowners as part of a scorched-earth litigation strategy.

For example, we have heard of situations where large responsible parties threaten to sue small businesses and homeowners listed in the local phone book because their trash was picked up by the municipality and deposited in the local landfill. To address these problems, this legislation will provide that no homeowner can be sued for merely putting household trash out on the curb which was picked up by the municipality.

Small businesses and those who sent extremely small amounts of waste material to the Superfund site obtained additional protection by having the burden of proof shifted in their favor in these third-party actions, as well as providing them the ability to collect reasonable attorneys' fees.

This bill represents a targeted and workable reform that is warranted and long overdue. I urge my colleagues to support the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. GILLMOR. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. TAUZIN), the chairman of the full committee.

Mr. TAUZIN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, first I would like to thank and appreciate the great work of the subcommittee chairman, the gentleman from Ohio (Mr. GILLMOR), in bringing this legislation to the floor today, and to recognize that this is the first, I think, significant reform in environmental laws in this country in 5 years; and that for this to happen, it required an extraordinary amount of bipartisan cooperation and support.

I particularly want to single out the ranking member of the Subcommittee on Environment and Hazardous Materials of the Committee on Energy and Commerce, the gentleman from New Jersey (Mr. PALLONE), who has done an extraordinary job of reaching across the aisle to the gentleman from Ohio (Mr. GILLMOR) and bringing this bill forward.

I owe a great deal of gratitude to my own ranking member, the gentleman from Michigan (Mr. DINGELL), who is working closely with me on the Committee of Energy and Commerce to bring a bipartisan spirit to much of our work. Again, this bill is the best symbol of that effort to date. I want to thank him for that.

I of course would like to thank the gentleman from Illinois (Mr. SHIMKUS), the gentleman from Tennessee (Mr. DUNCAN), and the gentleman from Oregon (Mr. DEFAZIO), who have put in so many hours and years.

There are numerous other people in this room who deserve credit.

It is important to note that this is indeed a bipartisan effort to find an answer to a very troubling problem in Superfund law, that is, how to protect the innocent folks who get caught up into this amazing and deep liability and litigation scheme that was designed to make sure that real polluters were punished by making them responsible for cleaning up Superfund sites in this country.

This particular area of small business relief I think was really brought to our attention for all Americans by Barbara Williams, the former owner of SunnyRay Restaurant in Gettysburg, Pennsylvania, who told us here in Congress about her own nightmare experience of being drawn into Superfund liability and transaction costs and litigation expenses. And for what reason? That her restaurant had put some chicken bones into her waste, and this had eventually gone to a site. All of a sudden she found herself wrapped up in the system in a way that the law never was intended to give Americans those kinds of problems.

The passage of this bill, which is hugely endorsed by NFIB and by the administration, is not the end; but it is certainly the beginning of Superfund reform. I commend the authors and encourage passage of the bill.

Mr. COSTELLO. Madam Speaker, I reserve the balance of my time.

Mr. DUNCAN. Madam Speaker, I yield 4 minutes to the gentleman from

New York (Mr. BOEHLERT), the chairman of the Committee on Science and a gentleman who has been a real leader on this particular legislation.

(Mr. BOEHLERT asked and was given permission to revise and extend his remarks.)

Mr. BOEHLERT. Madam Speaker, first of all, let me thank the gentleman from Tennessee (Mr. DUNCAN) for the outstanding leadership he has provided, and so many others, in support of this legislation.

I, too, support the legislation. While the bill provides some long-needed relief for small businesses and communities caught up in the Superfund liability net, it also signals a missed opportunity to enact more comprehensive reform.

For those of us familiar with the world of Superfund, H.R. 1831 specifically provides a de micromis exemption for those who are contributors of truly tiny amounts of waste.

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It also exempts those who contributed nonhazardous garbage, translate that, municipal solid waste. Finally, it encourages faster and fairer settlements through "ability to pay" procedures.

Make no mistake, though, this is not comprehensive reform. I continue to believe that the best approach is a more comprehensive one, an approach that addresses broader inequities in the liability scheme; that accelerates brownfields revisitation; that puts an end to joint and several liability; that embraces the concept of fair-share allocation, rejecting the just plain goofy concept of deep pockets.

If you are more successful, you have to pay more, regardless of what you contributed to the problem; that just does not make sense. We have to come to grips with the reality of the need to reauthorize Superfund taxes to ensure the principal of the fund, as well as the polluter pays principal.

Do not get nervous. We are talking about $1\frac{1}{2}\%$ of a percent on profits in excess of \$2 million when figured under the alternative minimum tax scheme. That sounds like so much mumbo jumbo.

But for a short period of time if we do not reauthorize the lapsed corporate environmental income tax, which I am convinced all America would embrace, then we do not have a Superfund fund to pay the bills.

We have to do it. That was the basis of the bill H.R. 1300 that moved through the Committee on Transportation and Infrastructure on a 69 to 2 vote in the last Congress. It continues to be the right approach, and that is why I have reintroduced it as H.R. 324 this year.

Madam Speaker, however, I am a realist. Given the complications of moving a more comprehensive bill, I support moving forward today with this targeted compromise, and I congratulate the gentleman from Ohio (Mr.

GILLMOR) and the gentleman from Tennessee (Mr. DUNCAN) for bringing it forward as long as we continue to work on other important components of the Superfund issue.

Let me point out, we know the impediment to reauthorizing the lapsed corporate environmental income tax, the $\frac{1}{100}$ of a percent tax, it is the oil industry. Last time I checked, they were doing pretty well. One company, in the first quarter of this year, made \$5 billion in profits; and you know what this $\frac{1}{100}$ of a percent tax would cost the entire industry, not the one company, but the entire industry, \$33 million.

The oil industry should be embarrassed, some members of the industry, some are responsible, I am not painting with a broad brush, to tell us they are opposed to reauthorizing it. That just does not make sense.

We have to deal with brownfields legislation. That is something else that is very important. Over 450,000 brownfields from coast to coast, mainly in our urban centers, laying idle because people are afraid to touch them because of some future liability. Those are where the jobs are needed in our center cities.

If you want to deal with urban sprawl, deal with it in a responsible way, pass brownfields legislation. So I hope this is only chapter 1 in a rather dramatic story that this Congress is writing dealing with Superfund in a comprehensive, sweeping way.

Madam Speaker, this is good public policy for America. This is a start. Madam Speaker, I am proud to identify with chapter 1, but I want to see more chapters.

Mr. DEUTSCH. Madam Speaker, I yield the remainder of the time to the gentleman from New Jersey (Mr. PALLONE), the ranking member of the Subcommittee on Environment and Hazardous Materials.

Mr. PALLONE. Madam Speaker, I want to thank the gentleman from Florida (Mr. DEUTSCH) for taking the time and being here to lead the bill on the Democratic side.

As I did last week in committee, I wanted to take a moment to recognize the significance of the consensus legislation that we will be considering in the House today. H.R. 1831, the Small Business Liability Protection Act, is a result of the hard work of Democrats and Republicans alike working towards a common goal. I believe our bipartisan efforts have produced an effective piece of legislation.

Madam Speaker, this bill will provide relief from private third-party litigation against homeowners and small businesses who had their trash taken to the local landfill and anyone who generates a minuscule amount of waste material containing hazardous substances. It is the EPA policy not to pursue or sue persons who meet these criteria.

Unfortunately, in many places, like Gettysburg, Pennsylvania, and Quincy,

Illinois, large responsible parties have threatened or sued small businesses with litigation. This legislation provides real protections for small businesses, homeowners, and contributors of very small amounts of waste material.

Most important is the fact that this legislation provides necessary protection while, at the same time, preserving the government's burden of proof, upholding important environmental provisions, and insuring that cleanup funds are not affected because there are no cost shifts to the Superfund trust fund or the Federal program.

Again, Madam Speaker, I wanted to point out my pleasure with this consensus legislation. I want to thank the staff of the Committee on Energy and Commerce who helped us on both sides of the aisle put this together, and I look forward to a joint effort to help pass this bill obviously today in the House and also in the Senate soon and have it enacted into law.

Madam Speaker, I want to again thank the gentleman from Florida (Mr. DEUTSCH), my colleague, for being here to be in charge of the bill on the Democratic side.

Mr. COSTELLO. Madam Speaker, I yield back the balance of my time.

Mr. GILLMOR. Madam Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. SHIMKUS).

(Mr. SHIMKUS asked and was given permission to revise and extend his remarks.)

Mr. SHIMKUS. Madam Speaker, I want to thank the gentleman from Ohio (Mr. GILLMOR), chairman of the Subcommittee on Environment and Hazardous Materials; the gentleman from Louisiana (Mr. TAUZIN), chairman of the Committee on Energy and Commerce; the gentleman from Michigan (Mr. DINGELL), the ranking member of the Committee on Energy and Commerce; and the gentleman from New Jersey (Mr. PALLONE), the ranking member on the Subcommittee on the Environment and Hazardous Materials, for their help in this legislation.

From my perspective, this legislation is for Quincy, Illinois.

On February 10, 1999, letters were sent from the EPA with a suspense date of March 15, 1999 to settle or get sued. It was as simple as that. We were able to go up to Quincy right after that letter hit the street on a Saturday morning to meet with over 100 small businesses.

We were able to get the EPA to delay the suspense date until March 24, and they actually sent out a legal person to basically make the case that they needed to settle or sue.

They were constrained by current law, so that is why I got involved with this battle that has been going on for many, many years to draft legislation to change the law.

The EPA gave a lot of the small businesses in Quincy, Illinois until March 24 to settle. There was 165 small busi-

nesses, and the settlement amount was over \$3.1 million. I personally was in contact with over 100 constituents. Some of these are still in litigation today.

The Speaker of the House, the gentleman from Illinois (Mr. HASTERT), came to visit Quincy, along with the gentleman from Iowa (Mr. BOSWELL), the gentleman from Missouri (Mr. HULSHOF), the gentlewoman from Missouri (Mrs. EMERSON). In those meetings, legislation was dropped in June of 1999, which was brought to the floor in the fall of 2000 on the suspension calendar, just like today. Unfortunately, although it had the majority of votes, it did not have the two-thirds required for passage.

We went back at it again in the new 107th Congress with new chairmen and a new attitude. Again, I want to thank the gentleman from Ohio (Mr. GILLMOR), chairman of the Subcommittee on Environment and Hazardous Materials; the gentleman from Louisiana (Mr. TAUZIN), chairman of the Committee on Energy and Commerce; the gentleman from Michigan (Mr. DINGELL), the ranking member of the Committee on Energy and Commerce; and the gentleman from New Jersey (Mr. PALLONE), the ranking member on the Subcommittee on the Environment and Hazardous Materials, who pushed this through.

We have a book that many of us read when we go to schools, especially grade schools, the House Mouse book in which there is a big debate on legislation about American cheese or Swiss cheese. Finally, both bodies of the legislative branch get together, and they decide American cheese, and the bill gets signed into law. And the little class that sent the letter is watching on TV as the President signs the bill. The story ends with the teacher saying we live in a wonderful, wonderful land.

Our ability to breach compromise and move legislation to get small businesses out of this trap of this Superfund liability is truly a remarkable compromise. I want to thank all of those who were involved. Yes, we do live in a wonderful, wonderful land.

Mr. DUNCAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I will simply say that this legislation is designed to remove some unintended consequences from this original Superfund legislation. In effect, it would have been done many years ago if we had been able to foresee what would happen in regard to some of these Superfund cleanup projects.

So this is very good environmental legislation. It is very good small business legislation, very fair and reasonable and moderate, and is something that I think can be proudly supported by Members on both sides of the aisle.

Mr. OXLEY. Madam Speaker, for twenty years, small business owners have lived in fear of the onerous Superfund law. With the

passage of H.R. 1831, the Small Business Liability Protection Act, the House of Representatives is saying, "Enough!"

As you may know, Superfund reform consumed a good portion of my legislative career during the last half decade. That's how I came to meet Barbara Williams, the restaurant owner in Gettysburg who found herself ensnared in Superfund liability even though she did little more than dump a few chicken bones and leftover mashed potatoes in the local landfill.

Small business owners across the country have suffered through the same expensive experience. Superfund was never supposed to drive these hard-working business people into bankruptcy. The National Federation of Independent Business has been out in front, trying to correct this injustice. And over the years, I came to feel that many Members also regarded this as unfair.

Barbara Williams and the NFIB started a crusade that is culminating in this bill. The legislative process can move slowly . . . and while it's moving, some us move along. But I have a sense of satisfaction that we are doing the right thing for innocent small businesses. I'd like to thank all of the people who worked with me on Superfund reform, and congratulate all those involved in bringing H.R. 1831 to the floor, including my colleague and good friend from Ohio, Representative PAUL GILLMOR.

Ms. MCCARTHY of Missouri. Madam Speaker, for years now, Congress has tried to bring relief to small business owners with Superfund concerns. I applaud bipartisan effort on this legislation to alleviate the unnecessary financial burdens on small business owners who are unjustly brought into the legal fray for sites where they did not contribute to the contamination. The Superfund program and the redevelopment of Brownfield sites are essential to the economic prosperity of our communities. H.R. 1831, the legislation before us today, is a balanced and fair approach because while it provides protections to relieve small business that did not contribute to the contamination from unnecessary and unwarranted litigation, it holds the appropriate contaminators accountable.

Much more work needs to be done to reform the Superfund program, including helping others seeking legitimate liability relief and holding those who did the actual contamination accountable, but this bill, seven years in the making, provides the long awaited relief that small businesses throughout our nation need. We must keep making progress on broader Superfund legislation.

Our actions at the Federal level should complement the successes of the Brownfields Program. Redevelopment of Brownfield sites helps all our communities and ultimately the small business owner. In 1998 the Kansas City Region was one of only 16 designated as a "Showcase Community" by the Environmental Protection Agency (EPA). This past year the program was awarded the EPA Region 7's Phoenix Award, a national honor recognizing excellence in Brownfield redevelopment work. These honors translate to true results.

Results in my district include jump starting the Lewis and Clark Redevelopment Area located in the historic West Bottoms known for

years in Kansas City's growth as the "stock yards." This area was ravaged by a devastating fire in 1998, leaving business and abandoned buildings gutted. Normally, a rebuilding process would begin except when there is a contamination complicating the process. In this instance, there were mitigating factors associated with contamination (mainly asbestos) and the federal Brownfields program was used to partner with the city and economic development to eliminate the contamination. With the involvement of the Brownfields program, a blighted eyesore on the threshold of downtown Kansas City has been removed and rejuvenated to restore and create jobs and economic development. A success story through the partnership of Brownfields and Superfund.

In all parts of my district there are similar success stories whether it is the Historic 18th and Vine Jazz Entertainment District, to the Beacon Hill Neighborhood housing redevelopment, and the Blue River Industrial Corridor. Brownfields afford the opportunity to build upon the synergies of public and private partnerships, resulting in business and job growth, improvement of quality of life, and reinvestment in what would otherwise continue to be a depressed area.

Ultimately, this translates into a thriving small business community. This is what the Superfund and Brownfields redevelopment programs were intended to create—not additional and unwarranted litigation.

Madam Speaker, I support this legislation and urge its adoption, along with further Superfund reform efforts.

Mr. DOYLE. Madam Speaker, I rise today in strong support of H.R. 1831, The Small Business Liability Protection Act. I was pleased to join fellow members of the Energy and Commerce Subcommittee on the Environment and Hazardous Materials in becoming an original cosponsor of this bill and I am pleased to see it moving forward towards implementation.

We all agree that small businesses are in great need of appropriate relief from unintended consequences posed by Superfund's liability structure. I realize that the parameters of what constitutes appropriate relief was a contentious matter during debate on related legislation considered in the previous session of Congress. I am pleased that continued discussions on the matter have produced consensus on how best to provide this relief such that we are now poised to advance a legislative remedy that is fair, balanced, and is supported by a diverse group of interested parties. Superfund reform has been a pressing need not only in Pennsylvania, but also throughout the country. Clearly, there is a need for more comprehensive Superfund reform. While this bill is limited in its scope, it will provide a much-needed clarification regarding small business liability that for too long has been misconstrued by the courts to the detriment of many small business owners.

It is my hope that the tone set by today's debate on H.R. 1831 will carry the bill to swift enactment, as well as foster an atmosphere in the House in which other significant achievements such as advancing brownfields legislation can be achieved.

In closing, I want to express my appreciation to both Subcommittee Chairman GILLMOR and Ranking Member PALLONE for exhibiting

exemplary leadership and bipartisanship on this most critical issue.

Mr. OTTER. Madam Speaker, I rise today to express my strong support for H.R. 1831, the Small Business Liability Protection Act. As an original co-sponsor of this bill, I believe it is vital that we pass this legislation and help end the fear of so many small businessmen and women that they will be held liable for unlimited toxic cleanup costs that are not their fault. Under current law, any contribution of hazardous material to a Superfund site makes any contributor wholly liable for the costs of cleanup. H.R. 1831 is an important and necessary improvement to Superfund, because it will exempt small businesses and non-profits that only contributed to Superfund sites a nominal amount of hazardous material. It will also exempt those who only contributed regular household waste to these sites. This reform will provide certainty and protection for small business that seek to start new enterprises and will provide incentives for businesses to take responsibility for mildly contaminated areas at the lowest possible cleanup cost.

While I strongly support H.R. 1831, I believe that we need to move quickly to pass even more substantive and comprehensive Superfund reform. In my own district, the Bunker Hill Superfund site in Kellogg, Idaho is a prime example of how hazardous waste cleanup can transform into open-ended federal government control of a community and its economy. I hope that the members who vote for H.R. 1831 will work with me to make additional needed Superfund reforms. Final approval for listing a Superfund site should be given to the governor of the state concerned after local input. States should have the opportunity to draw up their own cleanup plans before the federal government becomes involved.

I wish to thank Chairman YOUNG and Chairman TAUZIN for bringing this important legislation to the floor today. I urge my colleagues to protect small business from government run amok and vote for H.R. 1831.

Mr. YOUNG of Alaska. Madam Speaker, I rise in strong support for H.R. 1831, The Small Business Liability Protection Act.

Like most Members of Congress, I know small businessmen in my district who have been caught up in Superfund litigation. It is terrible to see the toll it takes on the lives of these individuals. They don't know if they will lose their businesses, or even their homes.

If there is one thing all of us should be able to agree on, it is liability relief for small businesses that sent only 2 drums of waste or only ordinary garbage to a Superfund site.

Congress never intended that these parties be subject to Superfund liability.

To those of you who are concerned about "Cherry-Picking" Superfund reforms—let me assure you I am very interested in addressing additional Superfund legislation in this Congress.

We still need to address natural resource damages, liability relief for innocent parties, finality for state cleanup programs and Brownfields generally, and Superfund's joint and several liability scheme.

I urge you to vote "yes" on H.R. 1831.

Mr. TOWNS. Madam Speaker, as the recent past ranking member of the subcommittee

with jurisdiction over superfund, I am proud to be an original co-sponsor of the small business liability protection act. This bill that sits before us today includes a significant achievement that has eluded us in the past, small business relief. I congratulate the bipartisan coalition that has worked together to achieve this worthy end. Small business which disposed of basically household trash or very small quantities of waste materials containing hazardous substances should not be a target of environmental cleanup efforts if they are not responsible for the environmental damage. Instead we should continue to pursue the polluter pays principle. The limits established by this legislation strike the right balance between the protection of small business and the continued protection of the environment. This will ensure that small business does not get inappropriately caught in a web of litigation.

We have worked long and hard to bring relief to small business owners. I am pleased that we have come to a bipartisan conclusion. I believe that bipartisan congratulations should be offered to the leadership of the Energy and Commerce Committee as well as the Environmental and Hazardous Materials Subcommittee.

Mr. DUNCAN. Madam Speaker, I yield back the balance of my time.

Mr. GILLMOR. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Ohio (Mr. GILLMOR) that the House suspend the rules and pass the bill, H.R. 1831.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. GILLMOR. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SECTION 245(i) EXTENSION ACT OF 2001

Mr. SENSENBRENNER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1885) to expand the class of beneficiaries who may apply for adjustment of status under section 245(i) of the Immigration and Nationality Act by extending the deadline for classification petition and labor certification filings, and for other purposes.

The Clerk read as follows:

H.R. 1885

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Section 245(i) Extension Act of 2001".

SEC. 2. EXTENSION OF DEADLINE.

Section 245(i)(1) of the Immigration and Nationality Act (8 U.S.C. 1255(i)(1)) is amended—

(1) in subparagraph (B)(i), by striking "2001;" and inserting "2001, or during the 120-

day period beginning on the date of the enactment of the Section 245(i) Extension Act of 2001;" and

(2) by amending subparagraph (C) to read as follows:

"(C) who, in the case of a beneficiary of a petition for classification, or an application for labor certification, described in subparagraph (B) that was filed after January 14, 1998—

"(i) was physically present in the United States on December 21, 2000; and

"(ii) demonstrates that the familial or employment relationship that is the basis of such petition for classification or application for labor certification existed on or before April 30, 2001;".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 1885.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, Section 245(i) of the Immigration and Nationality Act has been a controversial part of our immigration law since its inception in 1994. 245(i) allows illegal immigrants who are eligible for immigrant visas but who are illegally in the United States to adjust their status with the INS in the U.S. upon payment of a thousand dollar penalty.

In the absence of section 245(i), illegal immigrants must pursue their visa applications abroad. Pursuant to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, those who have been illegally present in the United States for a year would be barred for reentry for 10 years.

Supporters of section 245(i) argue that it promotes family unity because, without it, illegal immigrants would be forced to leave the United States and their American families for many years. I believe we must also recognize that by allowing illegal immigrants to adjust their status in the United States, section 245(i) serves as an open invitation to those waiting in the queue for immigrant visas to jump the line and enter the United States illegally.

This is not fair to those immigrants who respect the immigration laws of our country and wait patiently in their home countries for visas, sometimes for years.

Such line-jumping negates the deterrent power of the bar on readmission for long-term illegal immigrants, which was a key reform of our immigration laws.

As a part of last year's Legal Immigrant Family Equity Act, Congress decided to allow illegal immigrants who were in the United States as of December 21, 2000 and who would have green card petitions filed in their behalf by April 30, 2001 to utilize section 245(i). This was a delicately crafted compromise.

Now that April 30 has come and gone, supporters of 245(i) push for an extension of the application deadline, some arguing that we should make the program permanent. Many others oppose any extension whatsoever.

On what grounds can we find a principled compromise? President Bush has pointed the way. He has noted that illegal immigrants eligible to utilize section 245(i) under the LIFE Act may not have had their 4-month window to apply that the Act promised them. The INS did not issue implementing regulations until this March and bureaucratic delays may have prevented many individuals from taking advantage of the 245(i) extension, individuals that Congress intended to benefit.

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Furthermore, many illegal immigrants claim to have difficulty procuring the services of immigration lawyers in time to apply. The gentleman from Pennsylvania (Mr. GEKAS), the chairman of the Subcommittee on Immigration and Claims of the Committee on the Judiciary, has introduced a bill that ensures that illegal immigrants have the promised 4 months to apply.

H.R. 1885, the Section 245(i) Extension Act of 2001 would allow illegal immigrants to utilize section 245(i) as long as they have green card petitions filed on their behalf within 120 days of enactment after this 245(i) sunsets for good.

H.R. 1885 retains the LIFE Act's requirement that illegal immigrants must have been in the United States as of December 21, 2000, so as not to encourage further illegal immigration into the United States.

This bill also requires that illegal immigrants must have entered into family or business relationships qualifying them for green cards by April 30, the original filing deadline. This requirement ensures that we do not encourage a new wave of marriages designed purely to procure green cards.

Countless news articles have reported that many thousands of illegal immigrants rushed to get married to U.S. citizens to beat the April 30 deadline. Under H.R. 1885, the marriage or employment, in the case of a petitioning employer, must have begun by April 30.

I believe that H.R. 1885 is fair and balanced legislation which does not solve the requirements of people who have taken strong positions on either side of the issue but which gets the job done. It ensures that the intent and compromises embodied in the LIFE Act are carried out. I urge my colleagues to support this legislation.